

Assembly Bill No. 2729

CHAPTER 641

An act to amend Section 12110 of, and to add Section 13351.85 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 24, 2000. Filed
with Secretary of State September 26, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2729, Wesson. Vehicles: towing service.

(1) Existing law prohibits a towing service from providing a gift, commission, or compensations in consideration of arranging or requesting services, and prohibits any person or public entity from accepting these gifts, commissions, or compensations. Existing law also prohibits a towing service or the employee of a towing service from accepting anything of value from a repair shop for the delivery of a vehicle to the shop and prohibits a repair shop from paying anything of value to a tow truck service for delivery of a vehicle.

This bill would prescribe the punishments for first and subsequent violations of these provisions, and would provide additional measures relating to impounding tow trucks, including a requirement that the court order the Department of Motor Vehicles to suspend the driving privilege, as specified, if a tow truck driver is involved. Because of this requirement regarding the court, and because a violation of this provision would subject the offender to an increased period of confinement in the county jail, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 12110 of the Vehicle Code is amended to read:

12110. (a) Except as provided in subdivision (b), no towing service shall provide and no person or public entity shall accept any direct or indirect commission, gift, or any compensation whatever from a towing service in consideration of arranging or requesting the services of a tow truck. As used in this section, "arranging" does not

include the activities of employees or principals of a provider of towing services in responding to a request for towing services.

(b) Subdivision (a) does not preclude a public entity otherwise authorized by law from requiring a fee in connection with the award of a franchise for towing vehicles on behalf of that public entity. However, the fee in those cases may not exceed the amount necessary to reimburse the public entity for its actual and reasonable costs incurred in connection with the towing program.

(c) Any towing service or any employee of a towing service that accepts or agrees to accept any money or anything of value from a repair shop and any repair shop or any employee of a repair shop that pays or agrees to pay any money or anything of value as a commission, referral fee, inducement, or in any manner a consideration, for the delivery or the arranging of a delivery of a vehicle, not owned by the repair shop or towing service, for the purpose of storage or repair, is guilty of a misdemeanor, punishable as set forth in subdivision (d). Nothing in this subdivision prevents a towing service from towing a vehicle to a repair shop owned by the same company that owns the towing service.

(d) Any person convicted of a violation of subdivision (a) or (c) shall be punished as follows:

(1) Upon first conviction, by a fine of not more than five thousand dollars (\$5,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment. If the violation of subdivision (a) or (c) is committed by a tow truck driver, the person's privilege to operate a motor vehicle shall be suspended by the department under Section 13351.85. The clerk of the court shall send a certified abstract of the conviction to the department. If the violation of either subdivision (a) or (c) is committed by a tow truck driver, the court may order the impoundment of the tow truck involved for not more than 15 days.

(2) Upon a conviction of a violation of subdivision (a) or (c) that occurred within seven years of one or more separate convictions of violations of subdivision (a) or (c), by a fine of not more than ten thousand dollars (\$10,000) or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. If the violation of subdivision (a) or (c) is committed by a tow truck driver, the person's privilege to operate a motor vehicle shall be suspended by the department under Section 13351.85. The clerk of the court shall send a certified abstract of the conviction to the department. If the violation of either subdivision (a) or (c) is committed by a tow truck owner, the court may order the impoundment of the tow truck involved for not less than 15 days but not more than 30 days.

SEC. 2. Section 13351.85 is added to the Vehicle Code, to read:

13351.85. Upon receipt of a duly certified abstract of any court showing that a person has been convicted of a violation of Section 12110, the department shall suspend that person's driving privilege

for four months if the conviction was a first conviction, and for one year, if the conviction was a second or subsequent conviction of a violation of that section that occurred within seven years of the current conviction.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

